

FILED
at Santa Fe, NM

JK

JUN 17 2011

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN
CLERK

STATE OF NEW MEXICO, on the relation

The State Engineer,

Plaintiff,

v.

ROMAN ARAGON, et al,

Defendants.

Case No. 69cv-07941-BB

Rio Chama Stream System

Section 1 (mainstream)

**Opinion, Clarification and Objection to Special Masters Report
Recommending Further Proceedings**

Comes now the plebian, david ortiz, Acequia Commissioner and
Parciante as stated above; on 6/14/2011.

The State and the Court will be serving 5 Sub-Files as listed on p2-3, on
Doc.10157. In all probability all will be returned as undeliverable
(Doc.10159, 6/13/11, Ben and Pilar are in the grave) except two, the
one to David Ortiz and the one to Tony Consavage. I am not concerned
with any of the sub-files on the Hernandez Acequia, however as
Commissioner of the Acequia de Chamita, I am concerned about the
one going to Sara Montoya, sub-file 287. You see, Mrs. Sara Montoya
has been deceased for over 1 year. Her son Dennis, who was the
successor in interest as the heir, has also sold the land and water
Rights. What was once sub-file 287 belonging to the Montoya's now
belongs to 3 separate individuals. I have not counted the undeliverable
mail sent out by the State and Court, but they are MANY.

Over a year ago, mail was sent to A.B. Valdez and returned as undeliverable. The State and the Court were informed as to the current owner and asked to send those undeliverable Documents and as of today that has not been done. The Post Office in Fairview changed their street address. You see A.B. Valdez, Acequia de Chamita Commissioner and Parciante, is also deceased and His wife and son are now the successor in interest, registered owners of those water rights. That is my Objection, why go through an exercise in futility. Six of the nine people on the State's list are deceased. I know who they are and I know who is alive. I am the Acequia Commissioner and the individual Water Right Owner whom you say you are serving. I know Rio Arriba has the reputation of allowing dead people to vote, but sending them mail and not serving the living, rightful Water Right owners?

Also clarification needs to be made in certain recent documents.

I will state for the record again and ask, Were ALL the Parciantes of the Acequia de Chamita served with a Notice and Order to Show Cause in 1994? And given an opportunity to object or even know of as to the State's date of 1714. And additionally were ALL the Parciantes of the Acequia de Chamita informed as to the compromised date of 1600, offered in 1996? The answer is NO. And there were MANY CHANGES MADE of individuals between 1996 and 2010 when the 1600 date surfaced for the individual water right owners.

As to the State's and Master Gabin's confusion that Ortiz said that the Priority is to the Acequia only and not to the individual sub-file, let me make this clear, The Acequia is the individual Members. It is a self Governed Community. It is not just the land, the ditch and the water. Water Master Buck Well was not listing individual water rights, BUT

Acequia Water Rights which is all inclusive. The Judges Order on Priority Dates is to the Acequia and the individuals. At no time have I seen an individual member receive a priority date different from the Acequia's.

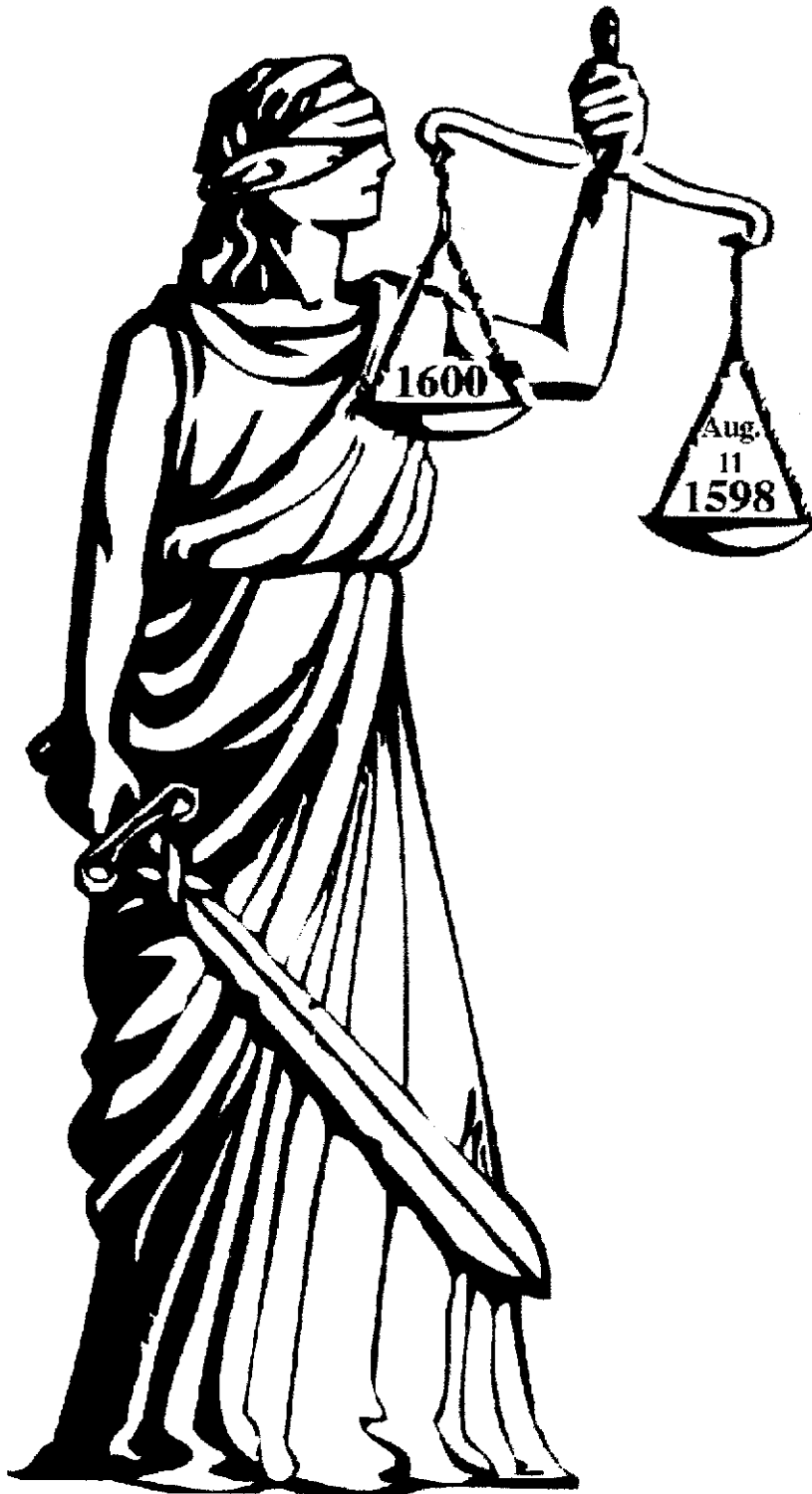
Let me also state for the record, San Juan Pueblo (Ohkay Owingeh) is a Parciante of the Acequia de Chamita and acquired those Water Rights from the Spanish who established that Acequia on August 11, 1598, when they were re-established on that land, the water and the water rights stay with land. The Water Irrigates the Land. They pay Acequia Fee's to the Acequia de Chamita.

Let me also address the State of New Mexico's reply, (Doc.10002, 2/17/11. P2, 1st Par.), in which the State says, that Ortiz did not even attend the Commissioners Meeting on 2/4/11. Mr. Sisneros wanted to hear what the Lawyer had to say. He did not say anything "new", that I didn't already know. He had to convince the other two(2) Commissioners because as we found out in March, 2010, He had already accepted 1600 for Chamita, without notifying us. Did Alex Sisneros also state in his affidavit that we had talked for about ½ hour that morning and I told him there is no way I would accept the 1600 date. For the record I would have voted-DO NOT ACCEPT. Additionally did he also state in his affidavit that Ortiz had a young heifer calving which I worked with through the night. Eloy Garcia helped me next morning, we finally went for the Vet and couldn't pull the calf. So I shot it in the brain and buried them that day. And as far as the meeting of 3/16/11 goes, the notice of the Special Meeting went out and the purpose was to vote to accept the 1600 date by the Parciantes. No vote was taken and the purpose of the meeting became "Informational". As far as the other 2 Commissioners are concerned they don't have the power or authority to change the By-Laws, so they could not accept

1600, because the By-Laws state the Acequia de Chamita was established on August 11, 1598, voted by the Parciales (members) and accepted unanimously in 2004 and were recorded by Rio Arriba County and the State Engineers Office. I told the Commissioner that the morning of 2/14/11. To accept the 1600 date for the Acequia de Chamita it would have to go on the agenda for the Parciales to amend the By-Laws.

Case: 6:69-cv-07941-BB

Respectfully Submitted by Defendant David Ortiz,



David Ortiz

(Signature of Defendant)

David Ortiz, Commissioner/Treasurer

DAVID ORTIZ

(Printed name of Defendant)

P.O. Box 1082

(Street address or P.O. Box)

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(City, State and Zip Code)

87566

Tract 22

Map 17

Subfile 267